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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,604	01/22/2004	Elizabeth A. Ellingson	P20031.00	7257

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MEDTRONIC, INC.
710 MEDTRONIC PARK
MINNEAPOLIS, MN 55432-9924

EXAMINER

CEGIELNIK, URSZULA M

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 04/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/763,604

Applicant(s)

ELLINGSON ET AL.

Examiner

Urszula M. Cegielnik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 16-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 13-15 is/are rejected.
- 7) ☒ Claim(s) 8-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 05/23/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Claims 16-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 21 March 2006.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by over Buboltz et al. (US Design Patent No. 459,215).

Buboltz et al. show a rigid heart structure defining at least one cardiac chamber and an affixation surface (the threaded portion) (see the Figures).

Claims 1, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Garoni et al. (US Patent No. 5,482,472).

Garoni et al. disclose a rigid heart structure (col. 2, lines 37-38) defining at least one cardiac chamber; and an affixation surface is formed from a material that permits lead affixation; multiple affixation surfaces; the multiple affixation surfaces are coded to visually indicate a status (col. 2, lines 43-46).

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garoni et al. (US Patent No. 5,482,472) in view of Gardeski et al. (US Patent Application Publication No. 2004/0249312).

Garoni et al. disclose the claimed invention except for a helical electrode from an implantable cardiac lead.

Gardeski et al. teach a helical electrode from an implantable cardiac lead (paragraph 0021, lines 16-17).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a helical electrode from an implantable cardiac lead as taught by Gardeski, since such a modification would permit actual simulation of procedures performed on the heart.

Claims 3, 4, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buboltz et al. (US Design Patent No. 459,215) in view of Jedlicka (US Patent No. 2,076,782).

Buboltz et al. show a rigid heart structure defining at least one cardiac chamber and an affixation surface (the threaded portion) (see the Figures).

Buboltz et al. do not disclose a plug made of silicone.

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Jedlicka discloses affixing a lead (10) to a support structure (16) via a plug (15)

It would have been obvious to provide the abovementioned features as taught by Jedlicka, since such a modification would permit a lead to be affixed to the heart structure.

With regards to the plug being silicone, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to construct the plug of silicone, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 3 above, and further in view of Williams (US Patent No. 2,743,834).

Buboltz et al., as modified by Jedlicka, lacks the plug having a dependent handle and having a slot disposed circumferentially about the base portion.

Williams teaches a plug with a handle (4) and a slot (11) disposed circumferentially about the base portion (10).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a slot disposed circumferentially about the base portion as taught by Williams, since Williams states at col. 2, lines 35-37, that such a modification would permit the core is be readily withdrawn.

It would also have been obvious to one having ordinary skill in the art at the time the invention was made to provide a handle as taught by Williams, since Williams states

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at col. 1, lines 57-61 that such a modification would permit handling of the plug during insertion and removal of the plug portion in a container.

Allowable Subject Matter

Claims 8-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM-2:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene L. Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Urszula M. Cegielnik

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Assistant Examiner

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A handwritten signature in cursive script, appearing to read "Eugene Kim".

EUGENE KIM
SUPERVISORY PATENT EXAMINER